

The Scheme of Settled Tax Liabilities

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The Scheme was introduced by the Govt. in the year 1998. For implementing the Scheme a new section of Income Tax Ordinance 1984 as section 82C was inserted through Finance Act 1998.

The Section 82C deals with income of certain persons, which is received, accrued or arisen or is deemed to accrue or arise and the whole of such income shall be deemed to be income of such person and the tax thereon be charged at the rates specified in the ordinance or the rules made there under.

The Section 82C has been originally inserted with some skelton items. Over the years from inception of the scheme the scope of the section has been broad based with the inclusion of items by Finance Act/Ordinance year-to-year upto date.

The classes of income/receipts falling under the settled tax liability scheme have been dealt with in some subsequent paragraphs. Now let us discuss about the theme of the Scheme as under:

- i. Where the income/receipts fall under this scheme there will be no further tax besides the tax deducted or collected at source.
- ii. No refund of tax can be claimed against tax deducted/collected at source.
- iii. No adjustment or set off of losses can be made against the deemed income of this section or of any loss can be carried forward from the previous year.
- iv. The deemed income/receipts shall be computed proportionately to the tax deducted/collected at source in terms of the rate applicable to the concerned Assessee for the particular Assessment year.
- v. In the Annual Tax Return for tax purpose of the Assessee the income/receipts under this section shall be shown but it will not be included in the Total Income of the Assessee. Excluding the income/receipts computed under this section on which tax has already been deducted/collected at source, the other income will be subject to tax at the rate applicable for that year.
- vi. The provision of sub-section 82C as to final settlement of tax liability shall not apply in case of payment on account of supply of goods or execution of contracts with regard to a contractor of an oil co. or to a sub-contractor to the contractor of the oil co. on which tax has been deducted at source as referred to in Rule 39 of the Income Tax Rules 1984. This will be treated as Advance Tax to be adjusted against the total tax liability. The provisions of section 82C as to final tax settlement shall also not apply in respect of any interest received by a company on which tax has been deducted at source and this is adjustable as Advance Tax on finalization of Assessment against the total tax liability.
- vii. In respect of the sale proceeds of a house property invested under subsection (10) of section 32 in a new co. for setting up an industry, the deduction of tax at source from the sale proceeds shall not be treated as settled tax liability under sub-section (1) of section 82C.
- viii. For determining the share of a partner of a firm out of such income as is determined under the scheme of settled tax liability, the said income of the firm shall be taken to be an amount which, if taxed at the rates other than the rates applicable to income under section 82C, would have resulted in tax liability equal to the tax payable in respect of income under the section 82C.

Let us now enumerate as below the income/receipts as covered under subsection (2) of the Section 82C on which tax has been deducted or collected at the prescribed rates under the said sections and which is treated as settled tax liability:

- i. Payments on account of supply of goods or execution of contract under section 52.

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- ii. The value of the band roles computed for the purpose of collection of tax on account of manufacture of cigarettes under section 52B.
 - iii. The amount as computed for the purpose of collection of tax under section 53 in respect of goods imported but excluding the goods imported by an industrial undertaking as raw materials for its own consumption. In other words, when the imports are for the trading purpose it falls under the scheme of settled tax liability under section 82C and when it is for own consumption of an Industrial Undertaking it is treated as Advance Payment of Tax.
 - iv. The amount received or receivable from shipping business of a resident under section 53AA.
 - v. The amount received/collected from persons engaged in the business of real estate or land development under section 53FF.
 - vi. The amount received from a member of a stock, exchange in respect of its transactions, under section 53BBB.
 - vii. The amount received from a non-resident on account of courier business under section 53CC.
 - viii. The amount received on account of export cash subsidiary paid by the Government under section 53DD for promotion of export of the country.
 - ix. The amount of value of the property under sale as per section 53H.
 - x. The amount of interest on savings instruments on which tax is deductible under section 52D.
 - xi. The amount on account of winnings referred to in section 19 (13) on which tax is deductible under section 55.
 - xii. The amount of income earned on export of manpower on which tax is deductible under section 53B.
 - xiii. The amount of remuneration payable to insurance agents as commission on which tax is deductible under section 53G.
 - xiv. The amount of income derived from the auction purchase on which tax is collectable under section 53C.
 - xv. The amount of income which is payable as survey fee to the surveyors of general insurance business on which tax is deductible under section 53GG.
 - xvi. The amount of income representing payment on account of royalty, technical know-how-fee for which tax is deductible under section 52A(2).
 - xvii. Commission from clearing & forwarding under section 52AAA.
- Besides, income derived from export of an assessee on account of export of knitwear and woven garments on which tax is deductible under section 53BB during the period from 01-07-2005 and 30-06-2010 shall also come under final discharge of tax liability as per SRO No. 205/AIN/I.T./2005 dated 06-07-2005 under certain conditions stated in the SRO. However, an assessee shall not be allowed to take into credit the full amount of income or receipts from which tax has been deducted or collected and considered as settled liability in explaining the nature and source of any sum, investment, money, valuable articles, excess amount or expenditure referred to in section 19 of the I. T. Ordinance 1984. In such cases the income on account of payments or receipts represented by the tax deducted at source can only be allowed as a source of fund for explaining the investment, the excess amount of expenditure etc. as referred to in section 19 of I. T. Ordinance 1984.
- It is however to be kept in mind that the tax liability of an assessee would be the amount as payable on the basis of the rates as applicable to other income excluding the income/receipts under section 82C which is treated as income under the settled tax liabilities. ■